

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

SPEED RMG PARTNERS, LLC, ROBBY)
GORDON, AND TODD ROMANO,) Case No. 20-cv-00609 (NEB/LIB)
Plaintiffs,)
v.)
ARCTIC CAT INC., ARCTIC CAT SALES)
INC., TEXTRON INC., AND TEXTRON)
SPECIALIZED VEHICLES INC.,)
Defendants.)
)

Speed RMG Partners, LLC, Robby Gordon, and Todd Romano (“Speed Parties”) move under Rule 56 of the Federal Rules of Civil Procedure for an order granting summary judgment or, in the alternative, partial summary judgment as to any of the individual issues presented in this Motion, in favor of Speed Parties as to the claims in the First Amended Complaint (“FAC”) filed by Arctic Cat Sales Inc., Arctic Cat Inc., and Textron Specialized Vehicles Inc. (“Arctic Cat Parties”) for (1) conversion and misappropriation of intellectual property, (2) federal trademark infringement, (3) common law trademark infringement and unfair competition, and (4) punitive damages. The FAC was originally filed in the action *Arctic Cat Sales Inc., et al. v. Speed RMG Partners, LLC, et al.* Case No. 2:19-cv-07435 (C.D. Cal.), which was later consolidated with the action *Speed RMG Partners, LLC, et al. v. Arctic Cat Sales Inc., et al.*, Case No. 19-cv-02362 (C.D. Cal.), and then transferred to this Court. Based on the undisputed material facts, Speed Parties are entitled to judgment on the following grounds and any other grounds stated in the memorandum of authorities:

- *Count V: Conversion and Misappropriation of Intellectual Property On Behalf of Arctic Cat Sales Inc.* Arctic Cat Sales Inc.’s claim for conversion is barred as a matter of law (1) because the conversion claim is not independent of Arctic Cat Sales Inc.’s contract claim and does not seek separate damages, and alternatively, because (2) the intangible rights forming the basis for the claim are not a protected property interest under Minnesota conversion law.

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- *Count III: Federal Trademark Infringement Under Section 32(a) of the Lanham Act, 15 U.S.C. § 1114 On Behalf of Arctic Cat Inc.* Arctic Cat Inc.'s claim for federal trademark infringement is barred as a matter of law (1) because summary judgment is appropriate as to Speed Parties' thirteenth and fourteenth affirmative defenses of consent and acquiescence, and alternatively, (2) because the alleged trademark infringement is protected by the nominative fair use doctrine.

- *Count IV: Common Law Trademark Infringement and Unfair Competition On Behalf of Arctic Cat Inc.* Arctic Cat Inc.'s claim for common law trademark infringement and unfair competition is barred because common law claims in Minnesota are co-extensive with Lanham Act claims, such that this claim is barred by the same defenses applicable to Arctic Cat Inc.'s Lanham Act claim (Count III).

- *Claim for Punitive Damages Alleged On Behalf of Arctic Cat Parties:* Arctic Cat Parties' claim for punitive damages is barred because they failed to seek leave to amend the FAC pursuant to Minnesota Statute section 549.191.

If the Court does not "grant all the relief requested by the Motion," Speed Parties respectfully request that it "enter an order stating any material fact . . . that is not genuinely in dispute and treating the fact as established in the case."

Fed. R. Civ. P. 56(g). Speed Parties base this Motion on the record in this action, the accompanying memorandum, the accompanying declarations and exhibits, any matter of which the Court may take judicial notice, any oral argument offered at the time of the hearing, and such other and further evidence that may properly be offered.

Dated: June 1, 2021

Respectfully submitted,

By: /s/ Steven A. Nichols

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